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Attorney Docket No.: 1006/0159PUS1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Daniel HENDRIX

Conf. No.: 2150

Application No.: 10/574,223

Art Unit: 3744

Filed: August 16, 2006

Examiner: Terrell L. McKinnon

Title: CHARGE INTERCOOLER FOR A
MOTOR VEHICLECommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**REQUEST FOR REVIEW BY SUPERVISORY PATENT EXAMINER**
PURSUANT TO MPEP 707.02

Sir:

MPEP 707.02 provides that "[a]ny application that has been pending five years should be carefully studied by the supervisory patent examiner and every effort should be made to terminate its prosecution. In order to accomplish this result, the application is to be considered 'special' by the examiner." It has been six and one-half years since the international filing of this application and about four and one-half years since the entry of the U.S. national stage. The present Office Action, the first by a newly assigned examiner, does not present rejections that are suitable for review on appeal and does not advance prosecution. It is respectfully requested that the examiner's supervisor review this application in order to avoid further prosecution delays.

First, the two-line rejection of all claims does not on its face constitute a prima facie case of anticipation. The Office Action indicates that the applied reference "discloses a charge air cooler essentially as claimed." This appears to be an admission that the applied reference does not disclose a charge air cooler exactly as claimed and

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Reply to Office Action dated January 24, 2011

does not constitute a prima facie rejection under 35 U.S.C. 102(b).

Next, the examiner has withdrawn rejections based on a U.S. reference and made new rejections based on a German counterpart of the previously applied reference. A blanket rejection of all claims was made even though the previous examiner understood the U.S. counterpart did not anticipate all claims. No explanation is provided as to how the German counterpart is now being interpreted to meet these limitations. At least in the case of claims 9, 11 and 20, there is not even a colorable argument for anticipation.

It is respectfully requested that the examiner's supervisor work with the examiner to allow this application or to present rejections that satisfy the requirements of 35 U.S.C. and that the examiner would be willing to defend before the Board of Appeals and Interferences so that prosecution of this application can be concluded.

Respectfully submitted,



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Date: March 23, 2011